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FILED
DISTRICT COURT OF GUAM

AUG 31 2005

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 05-00036
)	
Plaintiff,)	
)	
vs.)	MOTION FOR CONTINUANCE;
)	MEMORANDUM OF POINTS
NORMAN HON SUEN CHAN,)	AND AUTHORITIES
)	
Defendant.)	
_____)	

MOTION FOR CONTINUANCE

Defendant, through counsel, requests that the trial herein, which is scheduled to begin on September 6, 2005, be continued. This motion is made pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv). The basis for this request is that Defendant's initial counsel, the Federal Public Defender, recently withdrew as Defendant's counsel when it belatedly learned of a conflict which made continued representation of the defendant by that office inappropriate. The below signed counsel was orally advised of the appointment last week and received the Order of appointment only yesterday, August 30, 2005. Counsel has had a initial meeting with the defendant, but has not yet received the discovery packet relating to this matter and has not had an opportunity to evaluate the case or prepare for trial. A continuance is requested to permit reasonable time necessary for effective preparation.

ORIGINAL

This motion is further supported by the Memorandum of Points and Authorities which follows, the Declaration of Patrick Civile filed herewith, and all matters of record herein.

MEMORANDUM OF POINTS AND AUTHORITIES

Trial in this matter is scheduled to begin on September 6, 2005. Until a few days ago, the defendant was represented by the Federal Public Defender's Office. On August 24, 2005, the Federal Public Defender filed a motion to withdraw based on the discovery that an attorney in that office, who has been on extended leave for military, represented a person who will be a witness against the defendant in this action. Because of this conflict, the Federal Public Defender was permitted to withdraw as counsel for Defendant. The below signed counsel was thereupon appointed to represent the defendant.

Counsel has interviewed the defendant, and received a copy of a proposed plea agreement and a summary of one police report, but has not yet received the entire discovery packet in this matter. Counsel expects to receive the discovery documents by September 1. While it appears that this matter will be resolved through plea negotiations, if the matter does proceed to trial, counsel will need additional time, beyond September 6, to effectively prepare for trial.

This motion for a continuance qualifies as an ends of justice motion under 18 U.S.C. § 3161(h)(8)(A). The needs of the defendant to have the assistance of counsel who has had adequate time to prepare for trial "outweigh the best interest of the public and defendant in a speedy trial." *Ibid.*

Defense counsel is scheduled to begin a jury trial in the Superior Court on September 19, 2005, which opposing counsel in that case has estimated will last about thirty days. While it would

be surprising for the case to last that long, it will quite likely last through the end of the month and into the first week of October. Defendant's counsel requests that the trial in this matter be scheduled for a date after October 10, 2005. Yesterday, the Court set a trial date of November 8 in the case of *United States v. Christopher M. Espinosa*, Criminal Case No. 05-00053-001, which is another matter to which the below signed counsel was recently appointed. Counsel suggests that the trial in this matter be scheduled to immediately follow the *Espinosa* matter.

Respectfully submitted this 31st day of August, 2005.

CIVILLE & TANG, PLLC

By: 

G. PATRICK CIVILLE

Attorneys for Defendant

Norman Hon Suen Chan